

DEPARTMENT OF SOCIAL SERVICES  
744 P Street, Sacramento, CA 95814

January 27, 1995



ALL-COUNTY LETTER NO. 95-03

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☒ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: PROPOSITION 187

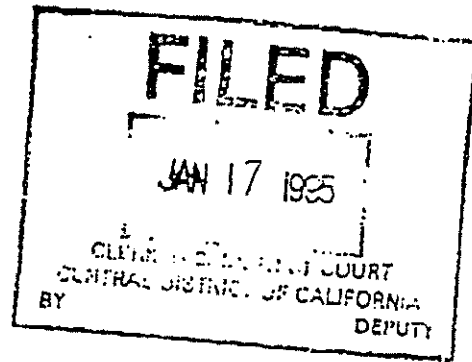
REFERENCES: ACL 94-103

The purpose of this notice is to advise you of the Preliminary Injunction issued by the United States District Court for the Central District (Los Angeles) on January 19, 1995, in the case of League of United Latin American Citizens v. Wilson, concerning Proposition 187. The Preliminary Injunction enjoins implementation and enforcement of Sections 4, 5, 6, 7, and 9, of Proposition 187 until further order of the court. The Department is required by the Preliminary Injunction to distribute its verbatim text to county welfare departments. Accordingly, a copy of the Preliminary Injunction is attached. Please note the court instructed that the enjoined provisions of Proposition 187 are not to be implemented (paragraph two of the Preliminary Injunction).

The court has also ordered that a poster be displayed by February 13, 1995. The poster will follow under separate cover.

Sincerely,

  
ELOISE ANDERSON  
Director



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

LEAGUE OF UNITED LATIN AMERICAN  
CITIZENS, et al.,

Plaintiffs,

v.

PETE WILSON, et al.,

Defendants.

CASE NO. CV 94-7569 MRP

PRELIMINARY INJUNCTION

CHILDREN WHO WANT AN EDUCATION,  
et al.,

Plaintiffs,

v.

PETE WILSON, et al.,

Defendants.

CASE NO. CV 94-7570 MRP

BARBARA AYALA, et al.,

Plaintiffs,

v.

PETE B. WILSON, et al.,

Defendants.

CASE NO. CV 94-7571 MRP

1 GREGORIO T., by and through his  
guardian ad litem, JOSE T.; et al.,

2 Plaintiffs,

3 v.

4 PETE WILSON, in his capacity as  
5 Governor of the State of  
California; et al.,

6 Defendants.  
7

CASE NO. CV 94-7652 MRP

8 Plaintiffs' Motions for Preliminary Injunction in these four  
9 related cases came on for hearing before this Court on December 14,  
10 1994. For the reasons announced in open court on that day and now set  
11 forth in the Findings of Fact and Conclusions of Law, the Court orders  
12 that the preliminary injunction sought by plaintiffs be granted in  
13 part and denied in part.

14 Accordingly,

15 1. IT IS ORDERED that, in order to maintain the status quo  
16 pending final judgment in these cases, all defendants, their officers,  
17 agents, and employees, and all other persons subject to their  
18 authority or control, shall be and are hereby restrained and enjoined  
19 during the pendency of this action from implementing or enforcing in  
20 any manner, other than internal preparation of administrative  
21 regulations, the following provisions of California Proposition 187,  
22 enacted at the November 8, 1994, general election:

23 a. Section 4 (codified at Cal. Penal Code § 834b);

24 b. Section 5 (codified at Cal. Welf. & Inst. Code  
25 § 10001.5);

26 c. Section 6 (codified at Cal. Health & Safety Code  
27 § 130);

28 d. Section 7 (codified at Cal. Educ. Code § 48215); and

1           c.    Section 9 (codified at Cal. Gov't Code § 53069.65).

2           2.    IT IS FURTHER ORDERED that defendants shall, on or before  
3 January 30, 1995, distribute copies of this Order to all state and  
4 local agencies, personnel, and health care workers affected by the  
5 above-named sections of Proposition 187. Any accompanying notice  
6 shall instruct that the enjoined provisions of Proposition 187 are not  
7 to be implemented. Notice as described herein shall be provided:

8           a.    by the Attorney General to all California District  
9 Attorneys, Police Chiefs and Sheriffs;

10           b.   by the Department of Health Services to its employees,  
11 all counties, all Medi-Cal licensed providers, and all publicly-funded  
12 health care facilities licensed by the Department of Health Services;

13           c.   by the Department of Social Services to all County  
14 Welfare Departments;

15           d.   by the Superintendent of Public Instruction to the  
16 governing board of each California school district and to the  
17 Superintendent of Education of each district; and

18           e.   by the Governor to all counties, cities and all persons  
19 and entities not included in (a) through (d) above which were provided  
20 with the Governor's Executive Order dated November 9, 1994 regarding  
21 Proposition 187.

22           3.    IT IS FURTHER ORDERED that on or before February 13, 1995,  
23 notice of the terms of this Order be provided to recipients of health  
24 care services, public social services, and educational services by  
25 making available and posting informational bulletins at all  
26 publicly-funded health care, social service and educational facilities  
27 covered by Proposition 187 informing applicants and recipients that  
28 Sections 5, 6, and 7 of Proposition 187 have been enjoined and are not

1 being enforced pending further court order and that applicants and  
2 recipients will not be reported to the Immigration and Naturalization  
3 Service pursuant to Proposition 187 pending further court order. The  
4 posting shall be in a conspicuous place where recipients of services  
5 will be likely to see it.

6 4. IT IS FURTHER ORDERED that the Superintendent of Public  
7 Instruction shall oversee the activities of all California school  
8 districts to ensure that they do not implement § 48215 of the  
9 California Education Code, as added by Proposition 187.

10 5. IT IS FURTHER ORDERED that defendants shall file a report  
11 with this Court on or before February 20, 1995, stating that all  
12 notification required by this Order has been accomplished.

13 6. IT IS FURTHER ORDERED that defendants shall designate  
14 personnel and publish the names and telephones of such persons within  
15 the Department of Health Services, Department of Social Services and  
16 Department of Education responsible for answering questions regarding  
17 this Order and receiving reports of non-compliance with it.  
18 Defendants shall promptly give notice to the Court and plaintiffs'  
19 counsel of all reports of non-compliance received, and what action was  
20 taken to investigate and cure instances of non-compliance.

21 7. IT IS FURTHER ORDERED that defendants are enjoined from  
22 disseminating, promulgating or publishing any regulations designed to  
23 implement Sections 4, 5, 6, 7 and 9 of Proposition 187 without further  
24 order of this Court. Defendants may proceed with the internal  
25 preparation of such regulations.

26 DATED: *January 17, 1995*

27 *Mariana R. Pfaezler*  
28 Mariana R. Pfaezler  
United States District Judge

## PROPOSITION 187 TEXT

### SECTION 1. Findings and Declaration.

The People of California find and declare as follows:

That they have suffered and are suffering economic hardship caused by the presence of illegal aliens in this state.

That they have suffered and are suffering personal injury and damage caused by the criminal conduct of illegal aliens in this state.

That they have a right to the protection of their government from any person or persons entering this country unlawfully.

Therefore, the People of California declare their intention to provide for cooperation between their agencies of state and local government with the federal government, and to establish a system of required notification by and between such agencies to prevent illegal aliens in the United States from receiving benefits or public services in the State of California.

### SECTION 2. Manufacture, Distribution or Sale of False Citizenship or Resident Alien Documents: Crime and Punishment.

†  
Section 113. is added to the Penal Code, to read:

Section 113. Any person who manufactures, distributes or sells false documents to conceal the true citizenship or resident alien status of another person is guilty of a felony, and shall be punished by imprisonment in the state prison for five years or by a fine of seventy-five thousand dollars (\$75,000).

### SECTION 3. Use of False Citizenship or Resident Alien Documents: Crime and Punishment.

Section 114. is added to the Penal Code, to read:

Section 114. Any person who uses false documents to conceal his or her true citizenship or resident alien status is guilty of a felony, and shall be punished by imprisonment in the state prison for five years or by a fine of twenty-five thousand dollars (\$25,000).

### SECTION 4. Law Enforcement Cooperation with INS.

Section 834b is added to the Penal Code, to read:

Section 834b. (a) Every law enforcement agency in California shall fully cooperate with the United States Immigration and Naturalization Service regarding any person who is arrested if he or she is suspected of being present in the United States in violation of federal immigration laws.

(b) With respect to any such person who is arrested, and suspected of being present in the United States in violation of federal immigration laws, every law enforcement agency shall do the following:

(1). Attempt to verify the legal status of such person as a citizen of the United States, an alien lawfully admitted as a permanent resident, an alien lawfully admitted for a temporary period of time or as an alien who is present in the United States in violation of immigration laws. The verification process may include, but shall not be limited to, questioning the person regarding his or her date and place of birth, and entry into the United States, and demanding documentation to indicate his or her legal status.

(2). Notify the person of his or her apparent status as an alien who is present in the United States in violation of federal immigration laws and inform him or her that, apart from any criminal justice proceedings, he or she must either obtain legal status or leave the United States.

(3). Notify the Attorney General of California and the United States Immigration and Naturalization Service of the apparent illegal status and provide any additional information that may be requested by any other public entity.

(c) Any legislative, administrative, or other action by a city, county, or other legally authorized local governmental entity with jurisdictional boundaries, or by a law enforcement agency, to prevent or limit the cooperation required by subdivision (a) is expressly prohibited.

#### SECTION 5. Exclusion of Illegal Aliens from Public Social Services.

Section 10001.5. is added to the Welfare and Institutions Code, to read:

Section 10001.5. (a) In order to carry out the intention of the People of California that only citizens of the United States and aliens lawfully admitted to the United States may receive the benefits of public social services and to ensure that all persons employed in the providing of those services shall diligently protect public funds from misuse, the provisions of this section are adopted.

(b) A person shall not receive any public social services to which he or she may be otherwise entitled until the legal status of that person has been verified as one of the following:

- (1). A citizen of the United States.
- (2). An alien lawfully admitted as a permanent resident.
- (3). An alien lawfully admitted for a temporary period of time.

(c) If any public entity in this state to whom a person has applied for public social services determines or reasonably suspects, based upon the information provided to it, that the person is an alien in the United States in violation of federal law, the following procedures shall be followed by the public entity:

- (1). The entity shall not provide the person with benefits or services.
- (2). The entity shall, in writing, notify the person of his or her apparent illegal immigration status, and that the person must either obtain legal status or leave the United States.
- (3). The entity shall also notify the State Director of Social Services, the Attorney General of California and the United States Immigration and Naturalization Service of the apparent illegal status, and shall provide any additional information that may be requested by any other public entity.

#### SECTION 6. Exclusion of Illegal Aliens from Publicly Funded Health Care.

Chapter 1.3 (commencing with Section 130) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

#### CHAPTER 1.3. PUBLICLY-FUNDED HEALTH CARE SERVICES

Section 130. (a) In order to carry out the intention of the People of California that, excepting emergency medical care as required by federal law, only citizens of the United States and aliens lawfully admitted to the United States may receive the benefits of publicly-funded health care, and to ensure that all persons employed in the providing of those services shall diligently protect public funds from misuse, the provisions of this section are adopted.

(b) A person shall not receive any health care services from a publicly-funded health care facility, to which he or she is otherwise entitled until the legal status of that person has been verified as one of the following:

- (1). A citizen of the United States.
- (2). An alien lawfully admitted as a permanent resident.
- (3). An alien lawfully admitted for a temporary period of time.

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(c) If any publicly-funded health care facility in this state from whom a person seeks health care services, other than emergency medical care as required by federal law, determines or reasonably suspects, based upon the information provided to it, that the person is an alien in the United States in violation of federal law, the following procedures shall be followed by the facility:

- (1). The facility shall not provide the person with services.
- (2). The facility shall, in writing, notify the person of his or her apparent illegal immigration status, and that the person must either obtain legal status or leave the United States.
- (3). The facility shall also notify the State Director of Health Services, the Attorney General of California and the United States Immigration and Naturalization Service of the apparent illegal status, and shall provide any additional information that may be requested by any other public entity.

(d) For purposes of this section "publicly-funded health care facility" shall be defined as specified in Section 1200 and 1250 of the Health and Safety Code as of January 1, 1993.

#### SECTION 7. Exclusion of Illegal Aliens From Public Elementary and Secondary Schools.

Section 48215. is added to the Education Code to read:

Section 48215. (a) No public elementary or secondary school shall admit, or permit the attendance of, any child who is not a citizen of the United States, an alien lawfully admitted as a permanent resident, or a person who is otherwise authorized under federal law to be present in the United States.

(b) Commencing January 1, 1995, each school district shall verify the legal status of each child enrolling in the school district for the first time in order to ensure the enrollment or attendance only of citizens, aliens lawfully admitted as permanent residents, or persons who are otherwise authorized to be present in the United States.

(c) By January 1, 1996, each school district shall have verified the legal status of each child already enrolled and in attendance in the school district in order to ensure the enrollment or attendance only of citizens, aliens lawfully admitted as permanent residents, or persons who are otherwise authorized under federal law to be present in the United States.

(d) By January 1, 1996, each school district shall also have verified the legal status of each parent or guardian of each child referred to in subdivision (b) and (c) above, to determine whether such parent or guardian is one of the following:

- (1). A citizen of the United States.
- (2). An alien lawfully admitted as a permanent resident.
- (3). An alien admitted lawfully for a temporary period of time.

(e) Each school district shall provide information to the State Superintendent of Public Instruction, the Attorney General of California and the United States Immigration and Naturalization Service regarding any enrollee or pupil, or parent or guardian, attending a public elementary or secondary school in the school district determined or reasonably suspected to be in violation of federal immigration laws within forty five days after becoming aware of an apparent violation. The notice shall also be provided to the parent or legal guardian of the enrollee or pupil, and shall state that an existing pupil may not continue to attend the school after ninety calendar days from the date of the notice, unless legal status is established.

(f) For each child who cannot establish legal status in the United States, each school district shall continue to provide education for a period of ninety days from the date of the notice. Such ninety day period shall be utilized to accomplish an orderly transition to a school in the child's country of origin. Each school district shall fully cooperate in this transition effort to ensure that the educational needs of the child are best served for that period of time.



**SECTION 8. Exclusion of Illegal Aliens from Public Postsecondary Educational Institutions.**

Section 66010.8. is added to the Education Code, to read:

Section 66010.8. (a) No public institution of postsecondary education shall admit, enroll, or permit the attendance of any person who is not a citizen of the United States, an alien lawfully admitted as a permanent resident, in the United States, or a person who is otherwise authorized under federal law to be present in the United States.

(b) Commencing with the first term or semester that begins after January 1, 1995, and at the commencement of each term or semester thereafter, each public postsecondary educational institution shall verify the status of each person enrolled or in attendance at that institution in order to ensure the enrollment or attendance only of United States citizens, aliens lawfully admitted as permanent residents in the United States, and persons who are otherwise authorized under federal law to be present in the United States.

(c) No later than 45 days after the admissions officer of a public postsecondary educational institution becomes aware of the application, enrollment, or attendance of a person determined to be, or who is under reasonable suspicion of being, in the United States in violation of federal immigration laws, that officer shall provide that information to the State Superintendent of Public Instruction, the Attorney General of California and the United States Immigration and Naturalization Service. The information shall also be provided to the applicant, enrollee, or person admitted.

**SECTION 9. Attorney General cooperation with the INS.**

Section 53069.65. is added to the Government Code, to read:

53069.65. Whenever the state or a city, or a county, or any other legally authorized local governmental entity with jurisdictional boundaries reports the presence of a person who is suspected of being present in the United States in violation of federal immigration laws to the Attorney General of California, that report shall be transmitted to the United States Immigration and Naturalization Service. The Attorney General shall be responsible for maintaining on-going and accurate records of such reports, and shall provide any additional information that may be requested by any other government entity.

**SECTION 10. Amendment and Severability.**

The statutory provisions contained in this measure may not be amended by the Legislature except to further its purposes by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the voters.

In the event that any portion of this act or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect any other provision or application of the act, which can be given effect without the invalid provision or application, and to that end the provisions of this act are severable.

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